

HONORABLE RICARDO S. MARTINEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

vs.

INTERNAL REVENUE SERVICE,

Defendant.

NO. 2:15-cv-01605 RSM

JOINT STATUS REPORT AND [PROPOSED]
ORDER REGARDING CASE SCHEDULE

The above-captioned action is for declaratory and injunctive relief under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, and the Administrative Procedure Act, 5 U.S.C. § 701 et seq. The parties jointly request that this action remains open. The parties agree to adopt the following procedures to resolve their outstanding disputes in this action:

1. The parties agree that the Defendant shall complete a *Vaughn* index for all records that had been withheld in full based on the 5 U.S.C. § 552(b)(5) exemption. *See Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). To the extent that the Defendant previously asserted an alternative basis (other than the 5 U.S.C. § 552(b)(5) exemption) for withholding the record in full, the Defendant need not include the record on the *Vaughn* index. To the extent that the Defendant takes the position that the record is exempt from disclosure based on an exemption

(other than the 5 U.S.C. § 552(b)(5) exemption) that the Defendant did not previously assert, the Defendant will include an entry in the *Vaughn* index for such record.

2. The parties propose adoption of the following schedule for this FOIA case:

SCHEDULE	
Event	Date
Defendant to provide declaration(s) concerning the adequacy of its search to the Plaintiff by:	August 31, 2020
Defendant to complete <i>Vaughn</i> index and provide to the Plaintiff by:	November 30, 2020
Plaintiff to complete list of challenges to Defendant's exemption claims on records withheld in part and provide to Defendant by:	November 30, 2020
Plaintiff to identify any remaining outstanding issues requiring briefing to Defendant by:	February 14, 2021
Defendant's motions for summary judgment (or stipulated dismissals) filed with the Court by:	March 31, 2021

3. Without prejudice to the Plaintiff's right to raise additional issues pursuant to the schedule set forth in paragraph 2, the parties presently anticipate that any dispute requiring briefing may be limited to the following issues:

a. Whether records created and/or assembled by the law firm Quinn Emanuel Urquhart & Sullivan, LLP, pursuant to its contract with the Defendant for the provision of services, constitute agency records under FOIA.

b. Whether the Defendant conducted an adequate search of the hard drive of Samuel Maruca, Defendant's former Director of Transfer Pricing Operations.

c. Whether the Defendant's handling of Mr. Maruca's hard drive rendered Defendant's search of that hard drive "unreasonable" as to Mr. Maruca's records.

d. Whether the Defendant properly withheld records (in whole or in part) based on a claim that such records were exempt from disclosure under 5 U.S.C. § 552(b)(5).

The parties jointly request that this action remains open and that the Court enter an order adopting the case schedule proposed in paragraph 2.

Respectfully submitted this 17th day of March, 2020.

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Attorneys for Defendant Internal Revenue Service

[PROPOSED] ORDER

It is SO ORDERED this ____ day of March, 2020.

THE HONORABLE RICARDO S. MARTINEZ
UNITED STATES DISTRICT COURT JUDGE

Presented by:

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